

The House Committee on Ways and Means offers the following substitute to HB 1416:

A BILL TO BE ENTITLED

AN ACT

To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the homestead option sales and use tax, so as to change the manner and method of disbursing the proceeds of such tax; to provide for definitions; to provide for legislative intent; to provide for procedures, conditions, and limitations; to provide for powers and duties of the state revenue commissioner; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the homestead option sales and use tax, is amended by adding a new paragraph (3) at the end of Code Section 48-8-101, relating to definitions, to read as follows:

"(3) 'Qualified municipality' means a municipality created on or after January 1, 2006, lying wholly within or partially within a county."

SECTION 2.

Said article is further amended by adding a new Code section immediately following Code Section 48-8-101, to be designated Code Section 48-8-101.1, to read as follows:

"48-8-101.1.

It is the intent of the General Assembly that the proceeds of the homestead option sales tax be distributed equitably to the counties and qualified municipalities according to this article. The provisions of this article shall be liberally construed to effectuate such intent.

This Code section shall not be construed to prevent the governing authority of a county from sharing sales and use taxes collected in accordance with this article with existing municipalities or to impair any existing intergovernmental agreement between a county and existing municipalities."

H. B. 1416 (SUB)

SECTION 3.

Said article is further amended by striking Code Section 48-8-104, relating to administration and disbursement of homestead option sales and use tax proceeds, and inserting in its place a new Code Section 48-8-104 to read as follows:

"48-8-104.

(a) The sales and use tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this article shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all sales and use taxes imposed by this article are collected and distributed according to situs of sale.

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this article shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration;

(2) Except for the percentage provided in paragraph (1) of this subsection; and the amount determined under subsections (d) and (e) of this Code section, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district; provided, however, that a county and any qualified municipality or other municipality created prior to January 1, 2006, shall be authorized by intergovernmental agreement to waive the equalization amount otherwise required under subsections (d) and (e) of this Code section and provide for a different distribution amount. In the event of such waiver,

1 except for the percentage provided in paragraph (1) of this subsection, the remaining
2 proceeds of the sales and use tax shall be distributed to the governing authority of the
3 county whose geographical boundary is conterminous with that of the special district. As
4 a condition precedent for the authority to levy the sales and use tax or to collect any
5 proceeds from the tax authorized by this article for the year following the first complete
6 calendar year in which it is levied and for all subsequent years except the year following
7 the year in which the sales and use tax is terminated under Code Section 48-8-106, the
8 county whose geographical boundary is conterminous with that of the special district
9 shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend
10 such proceeds as follows:

11 (A) A portion of such proceeds shall be expended for the purpose of funding capital
12 outlay projects as follows:

13 (i) The governing authority of the county whose geographical boundary is
14 conterminous with that of the special district shall establish the capital factor which
15 shall not exceed .200 and, for a county in which a qualified municipality is located,
16 not be less than the level required by subsection (d) of this Code section; and

17 (ii) Capital outlay projects shall be funded in an amount equal to the product of the
18 capital factor multiplied by the net amount of the sales and use tax proceeds collected
19 under this article during the previous calendar year. This amount shall be referred to
20 as capital outlay proceeds in subsections (d) and (e) of this Code section;

21 (B) A portion of such proceeds shall be expended for the purpose of funding services
22 within the special district equal to the revenue lost to the homestead exemption as
23 provided in Code Section 48-8-104 as follows:

24 (i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus
25 the capital factor times an amount equal to the net amount of sales and use tax
26 collected in the special district pursuant to this article for the previous calendar year,
27 and then dividing by the taxes levied for county purposes on only that portion of the
28 county tax digest that represents net assessments on qualified homestead property
29 after all other homestead exemptions have been applied, rounding the result to three
30 decimal places;

31 (ii) If the homestead factor is less than or equal to 1.000, the amount of homestead
32 exemption created under this article on qualified homestead property shall be equal
33 to the product of the homestead factor multiplied times the net assessment of each
34 qualified homestead remaining after all other homestead exemptions have been
35 applied; and

(iii) If the homestead factor is greater than 1.000, the homestead exemption created by this article on qualified homestead property shall be equal to the net assessment of each homestead remaining after all other homestead exemptions have been applied; and

(C) If any of such proceeds remain following the distribution provided for in subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code section:

(i) The millage rate levied for county purposes shall be rolled back in an amount equal to such excess divided by the net taxable digest for county purposes after deducting all homestead exemptions including the exemption under this article; and

(ii) In the event the rollback created by division (i) of this subparagraph exceeds the millage rate for county purposes, the governing authority of the county whose boundary is conterminous with the special district shall be authorized to expend the surplus funds for funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d) The commissioner shall distribute to the governing authority of each qualified municipality located in the special district a share of the capital outlay proceeds calculated as provided in subsection (e) of this Code section. The governing authority for the county in which a qualified municipality is located shall, on or before August 1 of each year, provide to the commissioner written certification of the capital factor set by the county for the current calendar year. The capital factor must be set at a level sufficiently high to allow the commissioner to pay the sum of all equalization amounts due the qualified municipalities located in the special district; provided, however, that the capital factor may not exceed 0.2000. The commissioner shall then calculate the equalization amount due each qualified municipality based on the capital factor certified by the county and pay such amount to the governing authority of each qualified municipality in four equal monthly payments as soon as practicable during or after each of the last four months of the current calendar year. The commissioner shall distribute to the governing authority of the county each month the net sales and use tax remaining after payment of equalization amounts to the qualified municipalities.

(e)(1) As used in this subsection, the term:

(A) 'Equalization amount' means for a qualified municipality the product of the equalization millage times the net homestead digest for that qualified municipality.

(B) 'Equalization millage' for each qualified municipality shall equal the product of the homestead factor calculated pursuant to subparagraph (c)(2)(B) of this Code

section times the difference between the unincorporated county millage rate and the incorporated county millage rate for that qualified municipality.

(C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in each of the qualified municipalities in the county.

(D) 'Net homestead digest' means for each qualified municipality the total net assessed value of all qualified homestead property located in that portion of the qualified municipality located in the county remaining after all other homestead exemptions are applied. The tax commissioner shall certify to the commissioner the net homestead digest for each qualified municipality at the time the digest is completed and deposited pursuant to Code Section 48-5-205.

(E) 'Unincorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in the unincorporated area of the county.

(2) A hypothetical example of the calculation of the equalization amount is as follows:

Calculation of homestead factor

(per subdivision (c)(2)(B)(i) of this Code section)

<u>Capital factor certified by county</u>	<u>0.150</u>
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(per subsection (d) of this Code section)

<u>Net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year</u>	<u>\$ 50 million</u>
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<u>Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied</u>	<u>\$100 million</u>
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Homestead factor using figures above

<u>[(1-.0150)(\$50 million/\$100 million)]</u>	<u>.425</u>
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Calculation of equalization amount

<u>Unincorporated county millage rate for county</u>	<u>15.0 mills</u>
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1	<u>Minus the incorporated county millage rate for</u>	
2	<u>municipality 'Y'</u>	<u>(10.0 mills)</u>
3	<u>Difference:</u>	<u>= 5.0 mills</u>
4	<u>Times homestead factor (calculated above)</u>	<u>x .425</u>
5	<u>Equalization millage:</u>	<u>= 2.125 mills</u>
6	<u>Times net homestead digest for municipality 'Y'</u>	<u>\$200 million</u>
7	<u>Equalization amount payable to municipality 'Y'</u>	<u>\$ 425,000.00</u>

8 (5) In the event the total equalization amounts payable in a calendar year to all qualified
9 municipalities in the special district exceeds the capital outlay proceeds calculated based
10 on a maximum capital factor of 0.200, the commissioner shall pay to the governing
11 authority of each qualified municipality a proportional share of such proceeds. The
12 commissioner shall calculate each qualified municipality's share by dividing the net
13 homestead digest for that qualified municipality by the total net homestead digest of all
14 the qualified municipalities in the special district.

15 (6) In the event the incorporated county millage rate for a qualified municipality is
16 greater than the unincorporated county millage rate, no payment shall be due from the
17 governing authority of the qualified municipality to the governing authority of the county.

18 (7) If any qualified municipality is located partially in the county then only that portion
19 so located shall be considered in the calculations contained in this subsection."

20 **SECTION 4.**

21 This Act shall become effective upon its approval by the Governor or upon its becoming law
22 without such approval.

23 **SECTION 5.**

24 All laws and parts of laws in conflict with this Act are repealed.